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Crime prevention and criminal justice

Promoting the practical application of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

Note by the Secretariat

By its resolution 2017/16, the Economic and Social Council recommended to the General Assembly the adoption of the following draft resolution:

Promoting the practical application of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

The General Assembly,

Bearing in mind the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights, and emphasizing the fundamental importance of human rights in the daily administration of criminal justice and crime prevention,

Recalling its resolution 65/230 of 21 December 2010, entitled "Twelfth United Nations Congress on Crime Prevention and Criminal Justice", in which it requested the Commission on Crime Prevention and Criminal Justice to establish an open-ended intergovernmental expert group to exchange information on best practices, national legislation and existing international law and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflected recent advances in correctional science and best practices,

Mindful of the extensive consultative process culminating in the recommendations of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners, a process spanning a period of five years, consisting of technical and expert pre-consultations, meetings in Vienna, Buenos Aires and Cape Town, South Africa, and the active participation and input of Member States from all regions, assisted by representatives of the United Nations crime

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prevention and criminal justice programme network and other United Nations entities, including the Office of the United Nations High Commissioner for Human Rights, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Office on Drugs and Crime, intergovernmental organizations, including the International Committee of the Red Cross, specialized agencies in the United Nations system, including the World Health Organization, and non-governmental organizations and individual experts in the field of correctional science and human rights,

Recalling its resolution 70/175 of 17 December 2015, entitled "United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)", in which it adopted the proposed revision of the Standard Minimum Rules for the Treatment of Prisoners as the United Nations Standard Minimum Rules for the Treatment of Prisoners and approved the recommendation of the Expert Group that the Rules should be known as "the Nelson Mandela Rules", to honour the legacy of the late President of South Africa, Nelson Rolihlahla Mandela, who spent 27 years in prison in the course of his struggle for global human rights, equality, democracy and the promotion of a culture of peace,

Recalling also that in its resolution 70/175, it decided to extend the scope of Nelson Mandela International Day, observed each year on 18 July,[1] to be also utilized in order to promote humane conditions of imprisonment, to raise awareness about prisoners being a continuous part of society and to value the work of prison staff as a social service of particular importance, and to that end invited Member States, regional organizations and organizations of the United Nations system to celebrate the occasion in an appropriate manner,

Recalling further that in the same resolution, it invited the Commission on Crime Prevention and Criminal Justice to consider, at its upcoming sessions, reconvening the Expert Group for the purpose of identifying the lessons learned, the means to continue to exchange good practices and the challenges faced in the practical application of the Nelson Mandela Rules,

Recalling its resolution 71/188 of 19 December 2016, entitled "Human rights in the administration of justice", in which it welcomed the adoption of the Nelson Mandela Rules, recognized the importance of the principle that, except for those lawful limitations demonstrably necessitated by the fact of incarceration, persons deprived of their liberty shall retain their non-derogable human rights and all other human rights and fundamental freedoms, and recalled that the social rehabilitation and reintegration of persons deprived of their liberty shall be among the essential aims of the criminal justice system, ensuring, as far as possible, that offenders are able to lead a law-abiding and self-supporting life upon their return to society,

Reaffirming its resolution 71/209 of 19 December 2016, entitled "Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity", in which it called upon Member States to implement, where appropriate, the Nelson Mandela Rules, bearing in mind their spirit and purpose, and encouraged Member States to take relevant measures, as appropriate to their national contexts, to ensure the diffusion, use and application of the United Nations standards and norms in crime prevention and criminal justice, including through the consideration and, where they deemed it necessary, dissemination of manuals

[1] See General Assembly resolution 64/13.

and handbooks developed and published by the United Nations Office on Drugs and Crime,

Recalling other United Nations standards and norms in crime prevention and criminal justice related to the treatment of prisoners and to alternatives to imprisonment, in particular the procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners,[2] the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,[3] the Basic Principles for the Treatment of Prisoners,[4] the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules),[5] the Guidelines for the Prevention of Crime[6] and the basic principles on the use of restorative justice programmes in criminal matters,[7]

Bearing in mind the need for vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, as called for in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules),[8] the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines),[9] the United Nations Rules for the Protection of Juveniles Deprived of their Liberty[10] and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),[11]

Mindful of the fact that the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, adopted at the conclusion of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Qatar in April 2015,[12] points to the need to implement and enhance policies for prison inmates that focus on education, work, medical care, rehabilitation, social reintegration and the prevention of recidivism, and to consider the development and strengthening of policies to support the families of inmates, as well as to promote and encourage the use of alternatives to imprisonment, where appropriate, and to review or reform restorative justice and other processes in support of successful reintegration,

Concerned about the negative impact of overcrowding on the enjoyment of human rights by prisoners,

Noting the continuing need to enhance the sharing of information and experiences and technical assistance to improve, where needed, prison conditions and to address different serious challenges such as overcrowding, taking into consideration relevant international standards and norms,

Underscoring that, notwithstanding their non-legally binding nature, the Nelson Mandela Rules represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations and set out what is generally

[2] Economic and Social Council resolution 1984/47, annex.
[3] General Assembly resolution 43/173, annex.
[4] General Assembly resolution 45/111, annex.
[5] General Assembly resolution 45/110, annex.
[6] Economic and Social Council resolution 2002/13, annex.
[7] Economic and Social Council resolution 2002/12, annex.
[8] General Assembly resolution 40/33, annex.
[9] General Assembly resolution 45/112, annex.
[10] General Assembly resolution 45/113, annex.
[11] General Assembly resolution 65/229, annex.
[12] General Assembly resolution 70/174, annex.

accepted as good principles and practices in the treatment of prisoners and in prison management,

Acknowledging the variety of legal frameworks of Member States, and in that regard recognizing that Member States may adapt the application of the Nelson Mandela Rules in accordance with their domestic legal frameworks, as appropriate, bearing in mind the spirit and purposes of the Rules,

Noting with concern the persistence, in various parts of the world, of challenges to the management of prisons consistent with international standards and norms, such as overcrowding, poor prison conditions that may result in serious medical consequences and the presence of prisoners assessed to be of high risk,

1. *Encourages* Member States to endeavour to improve conditions of imprisonment and to promote the practical application of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)[13] as the universally acknowledged and updated minimum standards for the treatment of prisoners, to use the Rules as a guide in the development of prison laws, policies and practices, to continue exchanging good practices and identifying challenges faced in the practical application of the Rules and to share their experiences in dealing with those challenges;

2. *Also encourages* Member States to address overcrowding in detention facilities by taking effective measures, including through enhancing the availability and use of alternatives to pretrial detention and custodial sentences, bearing in mind the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)[5] and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),[11] access to legal aid, mechanisms for crime prevention, early release and rehabilitation programmes and the efficiency as well as the capacity of the criminal justice system;

3. *Welcomes* the formation of the Vienna-based Group of Friends of the Nelson Mandela Rules as an informal and open-ended group of like-minded Member States, and also welcomes the first meeting of the Group, held during the twenty-sixth session of the Commission on Crime Prevention and Criminal Justice, at which the Group decided that the following would be its main purposes:

(a) Maintaining the momentum generated by the adoption of the Nelson Mandela Rules for prison management and reform by raising awareness of the Rules as well as by promoting their practical application worldwide;

(b) Convening expert consultations on priority aspects relating to prison management during future sessions of the Commission and facilitating common positions, as appropriate;

(c) Serving as the main support vehicle for the technical assistance delivered by the United Nations Office on Drugs and Crime under its Global Programme on Addressing Prison Challenges;

(d) Facilitating the widest possible involvement of Member States in the yearly celebrations of Nelson Mandela International Day, on 18 July, with the additional objective of promoting humane conditions of imprisonment;

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[13] General Assembly resolution 70/175, annex.

4. *Expresses its gratitude* to the Government of South Africa for having initiated and for assuming the chair of the Group of Friends of the Nelson Mandela Rules, thereby following up on the leadership it provided throughout the review process for the Standard Minimum Rules for the Treatment of Prisoners, including by hosting the last meeting of the Expert Group on the Standard Minimum Rules for the Treatment of Prisoners in Cape Town, South Africa, from 2 to 5 March 2015;

5. *Invites* all Member States to consider actively participating in the Group of Friends of the Nelson Mandela Rules in order to create an informal forum for the exchange of views, experiences and challenges with regard to the practical application of the Rules;

6. *Recognizes* that well-managed prisons and the treatment of prisoners consistent with international standards and norms for crime prevention and criminal justice can also contribute to the implementation by Member States of the 2030 Agenda for Sustainable Development[14] and the achievement of Sustainable Development Goal 16, Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels, and Goal 5, Achieve gender equality and empower all women and girls, in particular;

7. *Welcomes with appreciation* the Global Programme on Addressing Prison Challenges, launched by the United Nations Office on Drugs and Crime, and its technical assistance and advisory services, provided to Member States upon request, which focus on the three areas of rationalizing the resort to imprisonment, improving prison conditions and strengthening prison management, and supporting the social reintegration of prisoners upon their release;

8. *Reiterates* that good prison management practices, informed by the international standards and norms for crime prevention and criminal justice, should form the basis for the treatment of all categories of prisoners, and highlights in this regard the value of the Nelson Mandela Rules in addressing the specific challenges of high-risk prisoners;

9. *Welcomes* the technical assistance work carried out by the United Nations Office on Drugs and Crime, in close cooperation with national experts from Member States and with financial support provided by the Government of Germany, on the Nelson Mandela Rules, including the guidance material produced to assist corrections authorities with their application, including on the management of high-risk prisoners;

10. *Also welcomes* the financial support provided by the Government of Qatar for the purpose of supporting the implementation of the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation[12] in the form of a technical assistance programme implemented by the United Nations Office on Drugs and Crime, which includes a dedicated component on fostering the rehabilitation and social reintegration of prisoners;

11. *Requests* the United Nations Office on Drugs and Crime to continue ensuring broad dissemination of the Nelson Mandela Rules, to design guidance

[14] General Assembly resolution 70/1.

material and to provide technical assistance and advisory services to Member States, upon request, in the field of penal reform, in order to develop or strengthen penitentiary legislation, procedures, policies and practices consistent with the Rules;

12. *Also requests* the United Nations Office on Drugs and Crime, within its mandate, to facilitate the exchange of information and experiences in relation to the practical implementation of the Nelson Mandela Rules among Member States;

13. *Encourages* Member States to consider allocating adequate human and financial resources to assist in the improvement of prison conditions, including through upgrading and modernizing prison facilities, and the application of the Nelson Mandela Rules, and invites Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations;

14. *Acknowledges* the important role of the United Nations crime prevention and criminal justice programme network, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council in contributing to the dissemination, promotion and practical application of the Nelson Mandela Rules, and invites them to pursue cooperation and joint action.